



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

September 4, 2018

CBCA 6041-TRAV

In the Matter of KRISTINA LESZCZAK

Kristina Leszczak, Washington, DC, Claimant.

Robert T. Macdonald, Managing Director, Financial Reporting and Analysis, Department of State, Washington, DC, appearing for Department of State.

RUSSELL, Board Judge.

Claimant, Kristina Leszczak, a foreign service officer (FSO) for the Department of State (agency), seeks reimbursement of \$80 for service and cleaning fees charged by Airbnb and incurred as part of her lodging expense while on official travel.

Because these charges were part of the rental fee, and were not special services requested by claimant, we grant her claim.

Background

Claimant was authorized temporary duty (TDY) to Poland in May 2017. Using Airbnb's online service, claimant booked lodging in Warsaw and Krakow for a total of seven nights. She then submitted receipts to the agency that itemized three separate charges: one for lodging and two separate fees for cleaning and service. The agency reimbursed the lodging costs but refused to pay claimant \$80 for the cleaning and service fees.

The agency asserts that claimant failed to use the agency's Travel Management Center (TMC) to make lodging arrangements, and she is therefore responsible for paying the cleaning and service fees. The agency explains that, although it does not prohibit the use of lodging booking services such as Airbnb, an employee uses such services at his or her own risk and is responsible for special fees and other additional costs charged by such services.

Claimant points out that her expenses were well below the lodging per diem. In Warsaw, the applicable lodging per diem was \$153, but claimant's total per-night cost was \$76.50. In Krakow, the applicable lodging per diem was \$238, but claimant's per-night cost was \$64.80. Claimant additionally argues that the itemized fees at issue would still be a charge that the agency would have paid if claimant had booked a hotel, except that the fees would not have been itemized but subsumed in the hotel's per-night charge.

Discussion

Title 5 of the United States Code governs travel entitlements for most federal civilian personnel. However, Congress created a separate personnel system for FSOs under the Foreign Service Act of 1980 (FSA). *See* 22 U.S.C. § 4081 (2012); *see also Robert W. Carlson*, CBCA 2165-TRAV, 11-1 BCA ¶ 34,762, at 171,092. Pursuant to the FSA, the Secretary of State has promulgated the Foreign Affairs Manual (FAM), which provides guidance for the payment of travel expenses, including per diem. Unlike travel policies at other civilian agencies, the FAM is not subordinate to the Federal Travel Regulation, although the latter applies when specifically referenced by the FAM. 14 FAM 511.2-2; *see David C. Turnbull*, CBCA 5686-RELO, 17-1 BCA ¶ 36,864, at 179,617. The Board nonetheless has the authority to settle travel claims submitted by FSOs through a delegation from the Administrator of the General Services Administration. 31 U.S.C. § 3702(a)(3); *James W. Rorie, Sr.*, GSBICA 16801-RELO, 06-1 BCA ¶ 33,281, at 165,002-03.

The agency argues that claimant failed to use the TMC to make her travel arrangements, and that the cleaning and service fees charged by Airbnb are not reimbursable as either an itemized expense or within authorized lodging per diem. Although the agency notes that its preference is for employees to use the appropriate TMC to make lodging arrangements for official travel, the agency nevertheless recognizes that there is no legal prohibition against an employee in claimant's position utilizing Airbnb or a similar service for booking official lodging. The agency also acknowledges that an employee does not forfeit his or her right to reimbursement for lodging by making travel arrangements through these types of services. *See Scott M. Torrice*, CBCA 2431-TRAV, 11-2 BCA ¶ 34,839, at 171,385-86.

The agency paid claimant's lodging expense, so the question is whether the agency should additionally reimburse claimant for the cleaning and service fees charged by Airbnb. The FAM authorizes payment of a per diem allowance to employees for actual travel expenses for lodging, meals, and related incidental expenses. 15 FAM 511.3. There is no dispute that claimant incurred cleaning and service fees as part of, or incident to, her lodging expense. There is also no dispute that claimant's lodging expense was well below the authorized per diem.

The agency argues that its policy prohibits the reimbursement of additional special fees related to the use of lodging booking services. However, the agency points to no specific provision of the FAM or other written travel policy or regulation stating this prohibition. The FAM does preclude the reimbursement of certain items which are considered to be included within the lodging, meals, or incidental expenses portion of the per diem allowance – for example, fees and tips given to waiters, hotel personnel, and similar staff; air conditioning, televisions, heaters, microwaves, and refrigerators in rooms; and telephone access fees. 14 FAM 563.1. However, the cleaning and service fees charged by Airbnb are not on the list of items for which reimbursement is expressly disallowed.

According to its website, Airbnb charges a service fee to both hosts and guests when a booking is confirmed.¹ Hosts may also include cleaning fees to “help . . . account for extra expenses [hosts] have getting their listing ready before guests arrive or after guests depart.”² Neither item is expressly noted in the FAM as a non-reimbursable expense. Indeed, as pointed out by claimant, the fees at issue are akin to charges that would typically be subsumed in regular hotel costs (i.e., not itemized), and would otherwise not be objectionable. The agency should thus pay claimant \$80 for the service and cleaning fees.

Decision

The claim is granted.

Beverly M. Russell

BEVERLY M. RUSSELL

Board Judge

¹ <https://www.airbnb.com/help/article/1857/what-is-the-airbnb-service-fee>.

² <https://www.airbnb.com/help/article/58/how-do-i-add-a-cleaning-fee-to-my-listing>.